

Civil Division
United States Department of Justice

**Radiation Exposure
Compensation Act Trust Fund**

FY 2011 PERFORMANCE BUDGET
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Radiation Exposure Compensation Act Trust Fund

Overview

On October 5, 1990, Congress passed the Radiation Exposure Compensation Act (RECA or the Act). The Act offers an apology and monetary compensation to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground atmospheric nuclear weapons tests or as a result of their occupational exposure while employed in the uranium industry during the build-up to the Cold War. This unique program was designed as an alternative to litigation in that the statutory criteria do not require claimants to establish causality. Specifically, if the claimant can satisfy the requirements outlined in the statute, which include demonstrating that he or she contracted a compensable disease after working or residing in a designated location for a specified period of time, he or she qualifies for compensation. The amount of the award is statutorily prescribed and ranges from \$50,000 to \$100,000, depending on claimant category. Congress charged the Attorney General with responsibility for adjudicating claims under the Act.

“It is the purpose of this Act to establish a procedure to make partial restitution to the individuals... for the burdens they have borne for the Nation as a whole. ...The Congress apologizes on behalf of the Nation to the individuals... and their families for the hardships they have endured.”

Radiation Exposure Compensation Act

The Department of Justice (DOJ) established the Radiation Exposure Compensation Program (the Program) within the Civil Division. The Program commenced operations in April 1992. Since its inception, 31,312 claims have been filed and over \$1.4 billion has been awarded to 21,992 claimants (as of January 1, 2010).

Program Description

Mission Statement: Fairly and expeditiously adjudicate claims, fully consistent with the Radiation Exposure Compensation Act, as amended; educate the public about the Act; and develop strategies for improving the Program.

The Program office is located in Washington, D.C. and is administered by a staff of four attorneys, 12 claims examiners, and three contractor employees within the Civil Division’s Torts Branch. The support staff reviews claims packages, assists claimants with their applications, and manages physical case files. The Civil Division strives to process and resolve claims fairly and efficiently and has far surpassed its goals for the timely processing and adjudication of claims.

Background

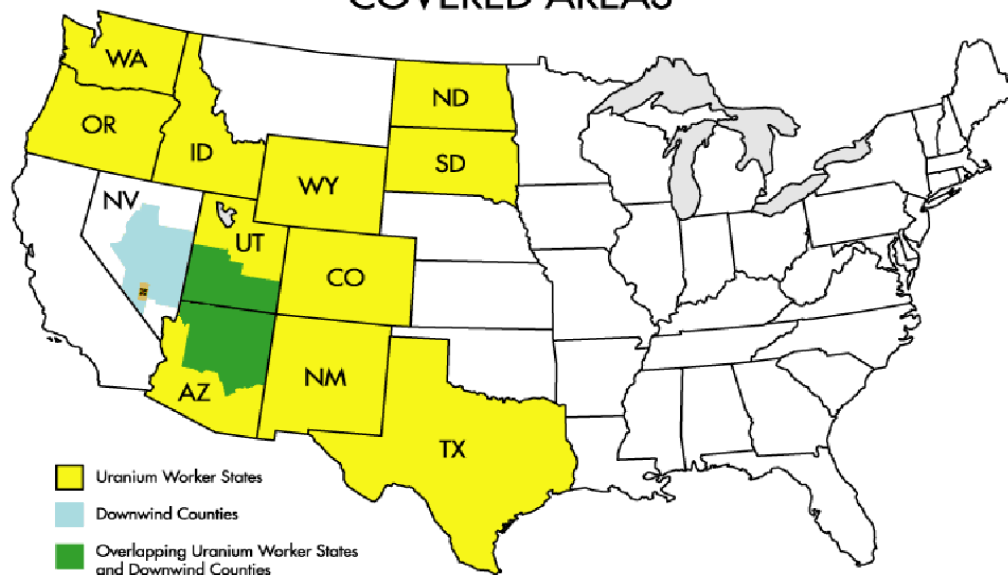
From 1945 through 1962, the United States conducted nearly 200 atmospheric nuclear weapons tests while building the arsenal that became the cornerstone of the nation’s Cold War security

strategy. Essential to the development of nuclear weapons was the mining and processing of uranium ore that was conducted by tens of thousands of workers. Many workers filed class action lawsuits that were eventually dismissed by the appellate courts. Congress then devised a program to make partial restitution to the individuals who developed serious illnesses after their exposure to radiation released during above-ground atmospheric nuclear tests or following their employment in the uranium industry. Congress passed the Radiation Exposure Compensation Act on October 5, 1990, and later broadened the scope of the Act's coverage on July 10, 2000.

Implementing regulations issued by the Department were designed to utilize existing records so that claims could be resolved in a reliable, objective, and non-adversarial manner, with little administrative cost to the United States or to the person filing the claim.

The Act established monetary compensation for specified diseases in three defined populations: uranium miners, millers, and ore transporters, who receive \$100,000; individuals present at test site locations, who receive \$75,000 (on-site participants); and individuals who lived downwind of the Nevada Test Site, who receive \$50,000 (downwinders). The map below shows the geographic areas covered by the Act. Although the vast majority of claims are filed by people living in the Four Corners Region (Utah, Colorado, New Mexico, and Arizona), the Program has awarded compensation to individuals residing in every state as well as several foreign countries. The claimant population also includes several Native American tribes.

MAP OF RADIATION EXPOSURE COMPENSATION ACT COVERED AREAS



Today, the RECA Program is at the center of a broad inter-agency network that comprises the comprehensive federal radiation compensation system. The RECA Program works in concert with the Departments of Health and Human Services, Labor, Veterans Affairs, and Defense to administer the Act.

Outreach

To ensure that deserving claimants receive compensation in a timely manner, the Program regularly engages in outreach activities. Program staff travels to the Navajo, Hopi, and Yavapai Apache Indian reservations to meet with tribal leaders, conduct town hall meetings, and assist members in filing claims. During FY 2010, the RECA Program conducted several outreach events to educate relevant communities on the requirements of the Program. For example, RECA staff traveled to Shiprock, New Mexico, located on the Navajo Indian reservation, to provide administrative assistance. During their visit, five paralegals conducted training sessions for local case workers at the Office of Navajo Uranium Workers, which is chartered by the Navajo Nation to assist tribal members in filing RECA claims. The RECA staff also met with claimants to review existing case files. Additionally, they visited Salt Lake City, Utah, to examine records maintained by the Church of Jesus Christ of Latter-Day Saints, train church researchers on the RECA eligibility criteria for “downwinder” claimants, and resolve challenging issues in outstanding claims.

The RECA staff will implement a major program beginning in FY 2010 to accomplish more effective outreach to Native American populations in the Four Corners region of New Mexico, Arizona, Utah, and Colorado. The program will bring college students to Washington, D.C., mainly from the Four Corners region, to educate them on the RECA Program, the claim application process, and the types and sources of information needed to successfully process claims. The curriculum will focus particularly on special concerns and difficulties faced by Native American populations in successfully presenting RECA claims. Upon their return to the Four Corners region, the students will be offered part-time employment conducting intensive RECA outreach efforts in the tribal communities.

Those employed in the outreach program will routinely travel into the tribal communities to perform the following tasks:

- Provide information to potentially eligible persons concerning the program.
- Assist potentially eligible persons in preparing RECA applications and obtaining necessary information and documents.
- Prepare appropriate public notifications and educational materials.
- Assist in educating social workers and medical professionals in the Four Corners region on the existence and requirements of the program.
- Engage in all other appropriate efforts to increase public awareness of and access to the program.

The Office of Justice Programs (OJP) will provide the vehicle to implement the program. Specifically, OJP will handle the logistics of bringing the students to Washington, D.C., providing room and board, and paying a stipend to the students. The Civil Division will reimburse OJP for its costs.

The program is scheduled to begin in the summer of 2010. Two sessions of training will take place, once in June and again in August. The students who successfully complete the training will begin their part-time employment to implement the outreach program in the fall. By the beginning of FY 2011, RECA anticipates an influx of claims in association with this expanded outreach to the Four Corners region.

Proposed Legislation

Legislation to amend RECA has been introduced in the current session of Congress. On March 19, 2009, Congresswoman Bordallo introduced a bill (H.R. 1630) to include the Territory of Guam as a “downwind” area. On March 31, 2009, identical versions of "The Charlie Wolf Nuclear Workers Compensation Act" were introduced in the House (H.R. 1828) and Senate (S. 757). Primarily, the bills seek to amend the Energy Employees Occupational Illness Compensation Program Act of 2000. However, both bills contain a provision to expand the list of compensable diseases for "downwinder" and "onsite participant" claimants under RECA. Specifically, ten new illnesses are proposed, which include benign tumors and non-cancer conditions. Finally, on June 24, 2009, S. 1432 was introduced by Senators Crapo, Risch, Baucus, and Tester, to expand the geographic boundaries of the “downwinder” affected area to include Idaho and Montana. None of the bills introduced in this session have been passed. Current workload and funding projections do not account for the possible impact of any scientific studies or substantive statutory changes.

Funding History

The RECA Trust Fund was subject to discretionary appropriations from FY 1992 to FY 2001. Following enactment of the 2000 Amendments, the appropriation became insufficient to meet the increase in the number of claims deemed eligible for compensation. In 2002, Congress addressed the problem within the Department of Defense Authorization Act for FY 2002, which established annual funding against mandatory spending caps. However, by 2003 the increased rate of new claim filings and approvals proved the caps to be inadequate, and a funding shortfall ensued. Working in close coordination, the appropriators and authorizers effectively devised legislative solutions to the funding problems. The following statutes ensure that all eligible RECA claims will be paid in a timely manner throughout the life of the Program.

- The Consolidated Appropriations Act for 2005 contained language that made funding for the RECA Trust Fund mandatory and indefinite beginning in FY 2006. Henceforth, the Fund has exclusively paid Section 4 claimants (downwinders and on-site participants).
- The National Defense Authorization Act for FY 2005 requires that RECA Section 5 claimants (uranium miners, millers, and ore transporters) be paid out of the Energy Employees Occupational Illness Compensation Fund.

Claim Statistics

Over the past 17 years, over 31,000 claims have been filed with the Program. This includes 8,861 denials and 21,992 approvals, which is an approximate 70 percent approval rate. Total RECA awards over the life of the Program exceed \$1.4 billion (as of January 1, 2010). Approximately 160 new claims are filed each month. Of those claims that have been denied since 1992, only 11 claimants have sought review in federal district court.

Performance, Resources, and Strategies

Performance Plan and Report for Outcomes

The Radiation Exposure Compensation Program supports Goal 2 of the Department of Justice's Strategic Plan, specifically Objective 2.7: "Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction."

The Program's primary objective is to implement civil justice reform initiatives to resolve categories of claims for which traditional litigation has proven ineffective and to administer compensation programs enacted by Congress that offer non-litigation solutions for radiation exposure claimants.

Strategies to Accomplish Outcomes

The Program will employ the following strategies to accomplish this mission:

- Hire skilled claims examiners to conduct the initial review of claims, freeing the Program attorneys to conclude the adjudication and render the final determination.
- Access external data sources, such as the Social Security Administration, the National Institute for Occupational Safety and Health, the Public Health Service, and state cancer and tumor registries to assist claimants in securing the necessary documentation in support of their claims.
- Coordinate with the Department of Labor's (DOL) Energy Employees Occupational Illness Compensation Program to ensure that eligible Section 5 RECA claimants receive compensation in a timely manner. This includes review of claimant files to decide eligibility pursuant to the Energy Employees Occupational Illness Compensation Program Act.
- Brief Members of Congress and their staffs as requested; provide information to Members and the public in an open, timely, and complete manner.
- Coordinate with the Department of Health and Human Services' Radiation Exposure Screening and Education Program to assist grantees in providing relevant information on the RECA Program to individuals screened for disease in the affected geographic regions.
- Use a toll-free phone line and website to communicate with claimants.
- Conduct outreach by traveling to areas with populations of potential claimants and participating in roundtable discussions held by congressional delegations for their constituents.
- Expand outreach with a new program wherein college students from the Four Corners region will be brought to D.C. and trained by RECA staff. Upon returning to their schools, the students will provide on-site assistance to potential claimants.

Radiation Exposure Compensation Act Workload Claims Filed and Approved (Dollars in Thousands)							
	FY 2005 Actual	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Estimate	FY 2011 Estimate
Section 4 Claims:							
Downwinders							
Pending, Beginning of Year	1,537	1,139	1,093	424	364	292	300
Claims Filed	1,367	999	1,038	1,131	1,137	1,140	1,235
Claims Approved	1,457	902	1,360	985	1,055	1,060	1,150
Value of Approvals	\$72,850	\$45,100	\$68,000	\$49,250	\$52,750	\$53,000	\$57,500
On-Site Participants							
Pending, Beginning of Year	268	247	208	91	70	51	60
Claims Filed	268	174	148	158	191	200	275
Claims Approved	181	80	156	91	115	120	166
Value of Approvals	\$12,666	\$5,548	\$11,280	\$6,438	\$8,437	\$9,000	\$12,450
Subtotal Section 4 Claims							
Pending, Beginning of Year	1,805	1,386	1,301	515	434	343	360
Claims Filed	1,635	1,173	1,186	1,289	1,328	1,340	1,510
Claims Approved	1,638	982	1,516	1,076	1,170	1,180	1,316
Value of Approvals	\$85,516	\$50,648	\$79,280	\$55,688	\$61,187	\$62,000	\$69,950
Section 5 Claims (Uranium Miners, Millers, and Ore Transporters)							
Pending, Beginning of Year	812	643	760	294	205	205	191
Claims Filed	943	1,087	659	700	575	560	448
Claims Approved	845	786	748	486	332	383	314
Value of Approvals	\$84,407	\$78,600	\$74,776	\$48,600	\$33,200	\$38,300	\$31,400
TOTAL							
Pending, Beginning of Yr	2,617	2,029	2,061	809	639	548	551
Claims Filed	2,578	2,260	1,845	1,989	1,903	1,900	1,958
Claims Approved	2,483	1,768	2,264	1,562	1,502	1,563	1,630
Claims Denied	683	460	833	597	482	483	510
<i>Total Adjudications (Approved + Denied)</i>	<i>3,166</i>	<i>2,228</i>	<i>3,097</i>	<i>2,159</i>	<i>1,984</i>	<i>2,046</i>	<i>2,140</i>
Approval Rate	78%	79%	73%	72%	76%	76%	76%
Value of Approvals	\$169,923	\$129,248	\$154,056	\$104,288	\$94,387	\$100,300	\$101,350